



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA FAX (540-341-8809) and FIRST CLASS MAIL

MAY 17 2011

Jason Torchinsky, Esq.
Holtzman Vogel PLLC
98 Alexandria Pike, Suite 53
Warrenton, VA 20186

RE: MUR 6326
American Association of Physician Specialists, Inc.;
American Association of Physician Specialists, Inc.
PAC and Stephen Montes, in his official capacity
as treasurer;
William J. Carbone

Dear Mr. Torchinsky:

On May 12, 2011, the Federal Election Commission ("the Commission") accepted the signed conciliation agreement and civil penalty submitted on behalf of your clients, American Association of Physician Specialists, Inc. and American Association of Physician Specialists, Inc. PAC and Stephen Montes, in his official capacity as treasurer, in settlement of a violation of 2 U.S.C. §§ 441b(a) and 434(b), provisions of the Federal Election Campaign Act of 1971, as amended. After considering the circumstances of the matter, the Commission also determined to take no further action as to William J. Carbone. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B).

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Enclosed you will find a copy of the fully executed conciliation agreement for your files. We previously received the full payment of the civil penalty. Please note that the conciliation agreement requires that the American Association of Physician Specialists, Inc. PAC amend the requisite disclosure reports to disclose the transactions described in the agreement. If you have any questions, please contact Shana M. Broussard at (202) 694-1650.

Sincerely,



Mark Allen
Assistant General Counsel

Enclosure
Conciliation Agreement

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OFFICE OF GENERAL
COUNSEL

MUR 6326

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

American Association of Physician Specialists, Inc.
American Association of Physician Specialists, Inc. PAC
and Stephen Montes, in his official capacity as treasurer

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Timothy J. Bell. The Federal Election Commission ("Commission") found reason to believe that American Association of Physician Specialists, Inc., American Association of Physician Specialists, Inc. PAC and Stephen Montes, in his official capacity as treasurer, violated 2 U.S.C. § 441b(a) of the Federal Election Campaign Act of 1971, as amended ("the Act"), and that the American Association of Physician Specialists, Inc. PAC and Stephen Montes, in his official capacity as treasurer, also violated 2 U.S.C. § 434(b) (collectively "Respondents").

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

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IV. The pertinent facts in this matter are as follows:

1. American Association of Physician Specialists, Inc. PAC, and Stephen Montes, in his official capacity as treasurer, ("the Committee") is the separate segregated fund ("SSF") of the American Association of Physician Specialists, Inc. ("AAPS"), a corporation organized under section 501(c)(6) of the Internal Revenue Code. William J. Carbone is the Chief Executive Officer of AAPS. The Committee is registered with the Commission and is a political committee within the meaning of 2 U.S.C. § 431(4)(B).

2. The Act prohibits corporations from making any contribution in connection with a Federal election, and prohibits political committees from knowingly accepting or receiving such contributions. 2 U.S.C. § 441b(a). This prohibition extends to corporations using general treasury funds to make contributions to their SSFs. *Id*

3. Political committees must disclose all receipts and disbursements. See 2 U.S.C. § 434(b).

4. On March 10 and 11, 2008, AAPS deposited \$1,300 intended for its National Initiative Fund ("NIF") account into the Committee's account. On April 4, 2008, the Committee disbursed the \$1,300 back to AAPS. The Committee did not disclose its receipt or disbursement of the \$1,300.

5. AAPS deposited \$20,000 in general treasury funds into the Committee's account on April 2, 2008. On April 15, 2008, the Committee disbursed \$14,465 back to AAPS. The Committee did not disclose its receipt of the \$20,000 or its disbursement of the \$14,465.

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1 6. The remaining \$5,535 of AAPS corporate funds stayed in the
2 Committee's account until April 13, 2009, when the Committee disbursed the funds back
3 to AAPS. The Committee did not disclose its disbursement of the \$5,535.

4 V. 1. Respondents violated 2 U.S.C. § 441b(a) as follows:

5 a. American Association of Physician Specialists, Inc.
6 violated 2 U.S.C. § 441b(a) by making a prohibited corporate contribution.

7 b. American Association of Physician Specialists, Inc. PAC
8 and Stephen Montes, in his official capacity as treasurer, violated 2 U.S.C. § 441b(a) by
9 receiving a prohibited corporate contribution.

10 2. American Association of Physician Specialists Inc. PAC and
11 Stephen Montes, in his official capacity as treasurer, violated 2 U.S.C. § 434(b) by
12 failing to disclose \$21,300 in receipts and disbursements.

13 VI. Respondents will take the following actions:

14 1. Respondents will pay a civil penalty to the Federal Election
15 Commission in the amount of Five Thousand Five Hundred Dollars (\$5,500), pursuant
16 to 2 U.S.C. § 437g(a)(5)(A).

17 2. Respondents will cease and desist from violating 2 U.S.C.
18 § 441b(a). American Association of Physician Specialists, Inc. PAC and Stephen
19 Montes, in his official capacity as treasurer, will cease and desist from violating
20 2 U.S.C. § 434(b).

21 3. American Association of Physician Specialists, Inc. PAC will
22 amend its disclosure reports to disclose the transactions described in this conciliation
23 agreement.

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1 VII. The Commission, on request of anyone filing a complaint under 2 U.S.C.
2 § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review
3 compliance with this agreement. If the Commission believes that this agreement or any
4 requirement thereof has been violated, it may institute a civil action for relief in the
5 United States District Court for the District of Columbia.

6 VIII. This agreement shall become effective as of the date that all parties hereto
7 have executed same and the Commission has approved the entire agreement.

8 IX. Respondents shall have no more than 30 days from the date this agreement
9 becomes effective to comply with and implement the requirements contained in this
10 agreement and to so notify the Commission.

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1 X. This Conciliation Agreement constitutes the entire agreement between the
2 parties on the matters raised herein, and no other statement, promise, or agreement, either
3 written or oral, made by either party or by agents of either party, that is not contained in
4 this written agreement shall be enforceable.

5 FOR THE COMMISSION:

6 Christopher Hughey
7 Acting General Counsel

8 BY: K. M. Guith 5-17-11
9 Kathleen M. Guith Date
10 Acting Associate General Counsel
11 for Enforcement

12 FOR THE RESPONDENTS:

13 Michael Bates March 22, 2011
14 Name: MICHAEL BATES Date
15 Position: COUNSEL TO AAPS
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